

ORIGINAL

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

ORIGINAL
FILE

In re)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations)
(Prineville and Sisters, Oregon))

MM Docket No. 92-3
RM-7874, RM-7958

RECEIVED

To: The Acting Chief, Allocations Branch,
Mass Media Bureau

APR 17 1992

REPLY COMMENTS TO COUNTERPROPOSAL Federal Communications Commission
Office of the Secretary

The Confederated Tribes of the Warm Springs Reservation of Oregon ("The Confederated Tribes"), the licensee of broadcast stations KTWS(FM), Channel 252C3, Bend, Oregon, and KTWI(FM), Channel 243C, Warm Springs, Oregon, and Highlakes Broadcasting Company ("Highlakes"), the licensee of broadcast stations KRCO(AM) and KIJK-FM, both licensed to Prineville, Oregon, and other broadcast licensees serving Bend, Oregon and surrounding communities^{1/} (collectively, the "Commenters"), hereby file their Reply Comments to the Counterproposal of Schuyler H. Martin in this proceeding. As the Commenters will show herein, the FCC must not summarily grant Mr. Martin's Counterproposal, but rather must fully investigate the circumstances surrounding this proceeding. If investigation confirms the taint that public-

1/ The other participating licensees are: Central Oregon Broadcasting, Inc., stations KBND(AM), Bend, Oregon and KLRR(FM), Redmond, Oregon; Dolphin Communications, Inc., stations KPRB(AM) and KSJJ(FM), Redmond, Oregon; JJP Broadcasting, Inc., station KQAK(FM), Bend, Oregon; Oak Broadcasting, Inc., stations KGRL(AM) and KXIQ(FM), Bend, Oregon; and Sequoia Communications, station KICE(FM), Bend, Oregon. These licensees have standing to file these Reply Comments under FCC v. Sanders, 309 U.S. 470 (1940).

No. 044
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record information suggests, the FCC must terminate this proceeding without upgrading the Sisters allotment and must then take such further action as is appropriate.

I. BACKGROUND

1. Danjon, Inc., by counsel (Shelton M. Binstock, Esq.), petitioned for rule making on November 27, 1991,^{2/} seeking the allotment of "Channel 284A to Prineville, Oregon as that community's first local service." Danjon asserted:

... Prineville is located in Crook County which does not have any local radio service. The proposed allotment would provide an important new broadcast service to the population of Prineville and its immediate environs and is therefore in the public interest.

The proponent intends to apply for a construction permit for Channel 284A at Prineville, Oregon upon amendment by the Commission of its Table of Allotments and further intends to construct such facilities immediately following the Commission grant of the construction permit to it. It is therefore submitted that the public would be served by modification of the FM Table of Allotments as follows:

<u>CITY</u>	<u>PRESENT ALLOCATION</u>	<u>PROPOSED ALLOCATION</u>
Prineville, Oregon	---	284A.

Danjon included a redacted spacing study showing that Channel 284A at Prineville complied with FM spacing requirements using the reference coordinates: North Latitude 44 Degrees, 15 Minutes, 07 Seconds; West Longitude 120 Degrees, 41 Minutes, 58 Seconds.

^{2/} The petition's public-reference copy bears an FCC receipt stamp dated November 27. The petition's cover letter is dated December 2, and the petition itself, November 28.

the allotment of Channel 284A to Prineville, Oregon, since it could provide the community with its first local FM service. Channel 284A can be allotted to Prineville in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.3 kilometers... southeast....

3. Three days after the NPRM's release, Danjon reiterated:

its interest in having the Commission allot Channel 284A to Prineville, Oregon as the community's first local service, ... [its intent] to promptly file a Form 301 Application for Construction Permit... [and its intent, i]f the construction permit is granted, ... to promptly construct the facility.

4. On March 9, the Comment deadline, Highlakes opposed the NPRM. Highlakes pointed out that its two stations already served Prineville, so Channel 284A would not be a first local service. Highlakes also asserted that Prineville cannot support another service, which the FCC must consider in making a decision.

5. Also on March 9, Schuyler H. Martin, by counsel (Kaye, Scholer, Fierman, Hays & Handler), objected to the NPRM as a threat to upgrading his unbuilt permit for station KPXA(FM), Channel 281A, Sisters, Oregon.^{3/} Mr. Martin urged the FCC to upgrade his permit to Channel 281C1 and to allot Channel 271A, not Channel 284A, to Prineville. Mr. Martin noted Channel 271A required no site restriction, whereas "... Channel 284A as proposed in the NPRM would have required a 12.3 km site restriction to protect two other stations."^{4/}

^{3/} However, Mr. Martin did not point out -- as Highlakes had -- that Channel 284A would be Prineville's third local service.

^{4/} For his own upgrade, Mr. Martin proposed a significant site restriction (29.4 km). Mr. Martin's reference point (North Latitude 44 Degrees, 04 Minutes, 40 Seconds; West Longitude 120 Degrees, 19 Minutes, 52 Seconds) corresponds to Awbrey Butte, the antenna farm for stations serving Bend, Oregon. See, e.g., authorizations BLH-901211KB and BMPH-900416ID,

6. On March 18, Danjon filed a "Withdrawal of Petition and Comments of Danjon, Inc." Danjon claimed prior ignorance of Highlakes' stations, and asserted it did:

not wish to be the third station in the market [and questioned] whether Prineville could support an additional station and, furthermore, whether a Danjon station could successfully compete against two stations operated by a single broadcaster who is established in the marketplace [emphasis in original].

With respect to Sisters, Danjon asserted that it was:

not inclined to contest this Counterproposal and does not want to obligate itself for additional engineering expense to determine the impact of the proposed channel change on its site availability prospects.

Danjon also asserted that it had not and would not receive and had not been promised consideration for its withdrawal.^{5/}

II. ARGUMENT

A Strong Air of Taint Permeates This Proceeding, Which The FCC Must Investigate. If This Proceeding Is Tainted, The FCC Must Terminate the Proceeding Without Upgrading KPXA to Class C1 Status, And Must Take Such Further Action As Is Appropriate

7. There is a strong air of taint permeating this proceeding. Danjon was purportedly interested enough in serving

4/(...continued)

Latitude 44 Degrees, 04 Minutes, 40 Seconds; West Longitude 120 Degrees, 19 Minutes, 52 Seconds) corresponds to Awbrey Butte, the antenna farm for stations serving Bend, Oregon. See, e.g., authorizations BLH-901211KB and BMPH-900416ID, for KTWS, on Awbrey Butte at North Latitude 44 Degrees, 04 Minutes, 41 Seconds; West Longitude 120 Degrees, 19 Minutes, 57 Seconds. However, the tightest constraint shown in the Counterproposal's technical statement (to KTRQ-FM, Channel 282C2, Tri-City) clears by a margin of 10.4 km. Thus, the reference point embodies Mr. Martin's mere site preference and an unnecessary distancing of the channel from Sisters.

5/ Danjon did not, however, provide an affidavit as required by Section 1.420(j) of the Rules.

Prineville to commission a Channel 284A spacing study, to petition for rule making, and to file Comments, but was ignorant of the two stations already serving Prineville -- one occupying a Class C1 entry in the FM Table. That simply defies belief. If Danjon did not take a moment to consult the FM Table, the FCC's data base or a standard reference like the Broadcasting Yearbook, what of the person who ran the redacted study Danjon included with its petition?

8. Also significant is the particular channel Danjon proposed. As Exhibit A shows, no less than six Class A channels fit at Prineville without any site restriction whatsoever. But none of them would be mutually exclusive with a Sisters upgrade. Had Danjon's motivation been to serve Prineville, clearly it would have selected one of the unrestricted channels. The obvious explanation is that Danjon filed its petition as a contrivance, an accommodation to Mr. Martin, who for strategic reasons did not want to appear on an NPRM of his own.^{6/} That way, Mr. Martin could file a "Counterproposal" to Channel 284A at Prineville on the last day and escape the full measure of publicity associated with an NPRM.

9. Danjon is a Maryland corporation incorporated by Mr. Binstock, its counsel in this proceeding. See Exhibit B. Danjon's charter recites its primary purpose as to apply for certain MDS channels, and Danjon has applied in major markets.

6/ Danjon may have made an accommodation filing for no consideration, so its Withdrawal statement was not fully responsive to Section 1.420(j), which requires, among other things, the disclosure of any oral agreement related to the dismissal or withdrawal of the expression of interest.

See Exhibit C. In connection therewith, Mr. Binstock, who is also Danjon's President, sole shareholder, and a Director (see Exhibit D), has not represented Danjon. Rather, Kaye, Scholer, Fierman, Hays & Handler -- also FCC counsel to Mr. Martin -- has. Thus, there is privity between Danjon and the law firm which filed the "Counterproposal" against Danjon's petition.^{7/}

10. The FCC requires rule-making requests to be genuine proposals advanced solely to obtain the requested allotment and facility.^{8/} A proposal filed to further some other purpose is an abuse of process which bears on the basic qualification of the filer to hold an FCC authorization, and the filer has the burden of proving that its application was filed only for a proper purpose. Asheboro Broadcasting Co., 20 FCC 2d 1 (1969). The filing of a sham proposal, or one that purports to be in direct conflict -- but which really is not an arm's length undertaking -- is an abuse of process that bears on basic qualifications. See, e.g., Margaret J. Hanway, 59 RR 2d 1296 (Rev. Bd. 1986), rev. den., FCC 86-476 (1986). The proposal with which an abusive

^{7/} Also of potential significance is: that Danjon's counsel in this proceeding (not a regular FCC practitioner -- see Exhibit E) and Mr. Martin's counsel both employed identical "Before the Federal Communications Commission" letterhead and virtually identical tab settings and line spacings; and that Danjon's counsel in this proceeding did not employ regular letterhead in cover letters to the Commission.

^{8/} "A statement of interest in operating a station made by a party who, in fact, lacks the requisite intent to construct and operate the proposed facility will henceforth be considered a material misrepresentation within the meaning of Section 73.1015 of the Rules and would be subject to prosecution pursuant to Section 502 of the Act, forfeiture pursuant to Section 503 of the Act, or other appropriate administrative sanctions." Report and Order in MM Docket No. 87-314, 5 FCC Rcd 3911, 3914 (1990), recons. den., 6 FCC Rcd 3380 (1991).

filing ultimately conflicts need not be pending when the FCC receives the abusive filing -- and the frequency relationship between the two proposals, the investigation of or failure to investigate alternative channels, by whom, and at whose behest, are all relevant. Sumiton Broadcasting Co., Inc., 15 FCC 2d 400 (Rev. Bd. 1968), 45 FCC 2d 933 (Rev. Bd. 1974), rev. den. in relevant part, 66 FCC 2d 656 (1979), aff'd sub nom. Millar et al. v. FCC, 53 RR 2d 1535 (D.C. Cir. 1983).

11. Moreover, Danjon's excuses for withdrawing do not hold water. Danjon claims that, as a result of the Comments filed, it learned that an AM/FM pair already served Prineville, and claims that it did not want to spend funds to determine the effect another channel would have on its "site-availability prospects." However, before Danjon ever filed its petition, readily available public-record materials showed that Highlakes' stations served Prineville. And per Exhibit F, Danjon never contacted the owner of the specific reference point it chose, so it had no basis for judging its "site-availability prospects" to begin with.

12. The public-record evidence strongly suggests that a serious abuse of the Commission's processes has taken place. Although largely circumstantial, such evidence can support a finding of abuse of process. Silver Star Communications-Albany, Inc., 3 FCC Rcd 6342 (Rev. Bd. 1988). At a minimum, such evidence mandates an enquiry.^{9/}

^{9/} "As the court directed in Citizens for Jazz on WRVR, Inc. v. FCC, 775 F.2d 392, 397 (D.C. Cir. 1985), when shown a good deal of smoke, 'the Commission must look into the possible existence of a fire.'" Joseph Bahr et al., 7 FCC Rcd _____, FCC 92R-25 (Rev. Bd., released March 31, 1992).

13. Out of concern over abuse of process, the FCC amended Section 73.1015 to include the following:

The Commission or its representatives may, in writing, ... in the case of a proceeding to amend the... Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to the allotment proceeding. No... person who files an expression of interest shall in response to Commission correspondence or inquiry... make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the [FCC].

Report and Order in MM Docket No. 87-314, supra. The FCC must fully investigate the most unusual circumstances permeating this proceeding. The FCC must not reward the Sisters permittee with a substantial facilities upgrade unless and until he sustains his burden of proof that no abuse of process has occurred.

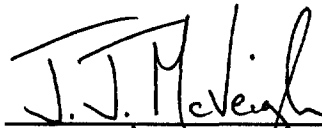
III. CONCLUSION

A substantial and material question exists as to whether Danjon's petition was a mere ploy to facilitate the upgrade of KPXA. The FCC cannot tolerate such artifices. The Commenters submit that the FCC cannot upgrade KPXA until it resolves this question. The FCC must then take further appropriate action.

Respectfully submitted,

THE CONFEDERATED TRIBES OF THE
WARM SPRINGS RESERVATION OF OREGON

By



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DOLPHIN COMMUNICATIONS, INC.

JJP BROADCASTING, INC.

OAK BROADCASTING, INC.

SEQUOIA COMMUNICATIONS

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of This Proceeding

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Date: April 17, 1992

EXHIBIT A

FM Spacing study

Title: PRINEVILLE, OR
Channel 227A (93.3 MHz)
Database: DW 04/04/92

Latitude: 44-18-00
Longitude: 120-50-00
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
KSJJ	LIC	REDMOND BROADCASTING GRO	224A	2.25	44-10-25	248.4	37.95	31
REDMOND	OR		92.7	107	121-16-29	68.1	6.955	CLOSE
Deletion proposed; ORDERED TO 275C; Was KPRB-FM 04/10/89;								
Affiliated with KPRB(AM)								
KHYT	LIC	TAD BROADCASTING INCORPO	225C2	17.1	46-30-15	7.8	247.4	55
TOPPENISH	WA	BLH-900706KP	92.9	257	120-23-33	188.2	192.4	CLEAR
License Granted 01/21/92 per FCC release #21301 dated 01/27/92;								
Was KZHR 12/01/88; Ant: Jampro JSCP-4; Affiliated with KYXE(AM)								
ALLOK			226C		44-03-00	261.7	176.9	165
SPRINGFIELD	OR		93.1		123-01-06	80.2	11.93	CLOSE
Allocated to SPRINGFIELD-EUGENE OR								
KSND	LIC	COMMUNITY EUGENE AM/FM B	226C	100	44-00-05	260.5	185.4	165
SPRINGFIELD-EUGENE	OR	BLH-900406KB	93.1	985	123-06-48	78.9	20.40	CLEAR
See SPRINGFIELD OR;								
License Granted 02/01/91 per FCC release #21044 dated 02/07/91								
KTEL-FM	LIC	COMCAST MEDIA SERVICES I	227C2	28	45-55-24	45.8	263.6	166
WALLA WALLA	WA		93.3	-39	118-23-30	227.6	97.57	CLEAR
Affiliated with KTEL(AM)								
KQIK-FM	LIC	KQIK LIMITED	228A	.28	42-12-18	169.9	236.3	72
LAKEVIEW	OR	BLH-871215KF	93.5	305	120-19-39	350.2	164.3	CLEAR
Deletion proposed; ORDERED TO 228C3								
KPDQ-FM	LIC	SALEM MEDIA OF OREGON IN	229C1	100	45-29-23	312.7	197.8	75
PORTLAND	OR		93.7	287	122-41-47	131.4	122.8	CLEAR
Affiliated with KPDQ(AM)								
NEW	APP	BARBARA MAIERS	230C2	50	47-05-51	18.3	328.6	55
EPHRATA	WA	BPH-890316MC	93.9	150	119-28-06	199.3	273.6	CLEAR
Amended 06/21/89; Accepted per FCC release #NA-120 dated 03/30/90								
KYRE	ORD	DALMATION ENTERPRISES IN	280C1		41-36-34	206.6	332.7	22
YREKA	CA		103.9		122-37-29	25.4	310.7	CLEAR
DOC-90-646; ORDERED FROM 249C2; Affiliated with KSYC(AM)								
KPXA	CP	SCHUYLER H MARTIN	281A	1.30	44-09-04	254.6	61.55	10
SISTERS	OR	BPH-891207MH	104.1	216	121-34-31	74.1	51.55	CLEAR
CP Granted 03/29/91 per FCC release #21086 dated 04/03/91;								
Call Granted 05/17/91 per FCC release #158 dated 05/17/91								

>> End of channel 227A study <<

FM Spacing study

Title: PRINEVILLE, OR
Channel 254A (98.7 MHz)
Database: DW 04/04/92

Latitude: 44-18-00
Longitude: 120-50-00
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)

WNDN-FM APC	NEW HORIZONS FOUNDATION,	*200D	.01	35-27-01	92.1	3577		
CONCORD	NC BPED-910510MB	87.9	30	80-38-05	298.6			
Tendered per FCC release #14997 dated 05/20/91; Cut-off 08/15/91 A-224; FROM *216D OF SALISBURY, NC								

KWVA	CP	UNIVERSITY OF OREGON FOU	*201A	.50	44-00-07	260.5	185.5	10
EUGENE	OR	BPED-880531MT	88.1	222	123-06-53	78.9	175.5	CLEAR
CP Granted 11/16/90 per FCC release #20996 dated 11/27/90; Call Granted 01/18/91 per FCC release #150 dated 01/18/91								

KING-FM LIC	KING BROADCASTING CO	251C1	100	47-37-55	343.0	388.5	75	
SEATTLE	WA	98.1	213	122-20-59	161.9	313.5	CLEAR	
Affiliated with KING(AM)								

KTWS	LIC	CONFEDERATED TRIBES OF O	252C3	7DA	44-04-41	238.4	46.91	42
BEND	OR	BLH-901211KB	98.3	188	121-19-57	58.0	4.914	CLOSE
License Granted 07/03/91 per FCC release #21157 dated 07/10/91; Was KIDD-FM 01/28/91 per FCC release #150 dated 01/18/91; DA: Jampro JMPC-2R @ 0 deg								

KUPL-FM LIC	SCRIPPS HOWARD BROADCAST	253C	100	45-27-13	314.2	186.4	165	
PORTLAND	OR BLH-860324KF	98.5	336	122-32-45	132.9	21.40	CLEAR	
Affiliated with KUPL(AM)								

KUBQ	CP	GRANDE RADIO INCORPORATE	254C2	1.15	45-26-17	58.7	251.0	166
LA GRANDE	OR	BPH-890426IC	98.7	786	118-05-25	240.6	84.97	CLEAR
CP Granted 08/31/89; ORDERED FROM 252A; Was KKUC 06/04/90 per FCC release #135 dated 06/01/90								

KEZX-FM LIC	ROY H PARK BCG OF WASH I	255C	96	47-32-41	345.2	374.0	165	
SEATTLE	WA	98.9	338	122-06-28	164.3	209.0	CLEAR	
Was KEZX 12/31/86; Affiliated with KEZX(AM)								

KPNW-FM LIC	PACIFIC NORTHWEST BCG CO	256C	100	44-06-56	264.0	174.3	95	
EUGENE	OR BLH-840409BY	99.1	497	122-59-56	82.5	79.30	CLEAR	
Affiliated with KPNW(AM)								

KQFM	LIC	HERMISTON BROADCASTING C	257A	3	45-51-57	33.9	211.2	31
HERMISTON	OR	BLH-870721KA	99.3	91	119-18-45	215.0	180.2	CLEAR
Affiliated with KOHU(AM)								

>> End of channel 254A study <<

FM Spacing study

Title: PRINEVILLE, OR
Channel 255A (98.9 MHz)
Database: DW 04/04/92

Latitude: 44-18-00
Longitude: 120-50-00
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)

KWVA	CP	UNIVERSITY OF OREGON FOU	*201A	.50	44-00-07	260.5	185.5	10
EUGENE		OR BPED-880531MT	88.1	222	123-06-53	78.9	175.5	CLEAR
CP Granted 11/16/90 per FCC release #20996 dated 11/27/90;								
Call Granted 01/18/91 per FCC release #150 dated 01/18/91								

KBVM	LIC	METRO CATHOLIC BROADCAST	*202C2	1.90	45-30-58	312.8	201.9	15
PORTLAND		OR BLED-891222KC	88.3	428BT	122-43-59	131.4	186.9	CLEAR
License Granted 02/04/91 per FCC release #21046 dated 02/11/91;								
Call Granted 04/02/87								

KTWS	LIC	CONFEDERATED TRIBES OF O	252C3	7DA	44-04-41	238.4	46.91	42
BEND		OR BLH-901211KB	98.3	188	121-19-57	58.0	4.914	CLOSE
License Granted 07/03/91 per FCC release #21157 dated 07/10/91;								
Was KIDD-FM 01/28/91 per FCC release #150 dated 01/18/91;								
DA: Jampro JMPC-2R @ 0 deg								

KUPL-FM	LIC	SCRIPPS HOWARD BROADCAST	253C	100	45-27-13	314.2	186.4	95
PORTLAND		OR BLH-860324KF	98.5	336	122-32-45	132.9	91.40	CLEAR
Affiliated with KUPL(AM)								

KUBQ	CP	GRANDE RADIO INCORPORATE	254C2	1.15	45-26-17	58.7	251.0	106
LA GRANDE		OR BPH-890426IC	98.7	786	118-05-25	240.6	145.0	CLEAR
CP Granted 08/31/89; ORDERED FROM 252A;								
Was KKUC 06/04/90 per FCC release #135 dated 06/01/90								

KEZX-FM	LIC	ROY H PARK BCG OF WASH I	255C	96	47-32-41	345.2	374.0	226
SEATTLE		WA	98.9	338	122-06-28	164.3	148.0	CLEAR
Was KEZX 12/31/86; Affiliated with KEZX(AM)								

KPNW-FM	LIC	PACIFIC NORTHWEST BCG CO	256C	100	44-06-56	264.0	174.3	165
EUGENE		OR BLH-840409BY	99.1	497	122-59-56	82.5	9.297	CLOSE
Affiliated with KPNW(AM)								

KQFM	LIC	HERMISTON BROADCASTING C	257A	3	45-51-57	33.9	211.2	31
HERMISTON		OR BLH-870721KA	99.3	91	119-18-45	215.0	180.2	CLEAR
Affiliated with KOHU(AM)								

KWJJ-FM	LIC	CONTEMPORARY FM INCORPOR	258C1	100	45-29-23	312.7	197.8	75
PORTLAND		OR	99.5	265	122-41-47	131.4	122.8	CLEAR
Was KJIB 08/19/85								

>> End of channel 255A study <<

FM Spacing study

Title: PRINEVILLE, OR
Channel 269A (101.7 MHz)
Database: DW 04/04/92

Latitude: 44-18-00
Longitude: 120-50-00
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License		St FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
KRBM	LIC	STATE OF OR COMMISSION P	*215C2	24.6	45-35-21	44.6	203.7	15
PENDLETON		OR BLED-871019KC	90.9	180	118-59-53	225.9	188.7	CLEAR
KWAX	LIC	STATE OF OREGON	*216C1	20	44-00-07	260.5	185.5	22
EUGENE		OR BLED-810519AK	91.1	308	123-06-53	78.9	163.5	CLEAR
KUFO	LIC	HENRY BROADCASTING COMPA	266C	100	45-30-58	312.8	201.9	95
PORTLAND		OR BLH-821018AR	101.1	498BT	122-43-59	131.4	106.9	CLEAR
Was KKCX 01/23/90 per FCC release #126 dated 01/26/90; Affiliated with KBBT(AM)								
KGDN	CP	WEST PASCO FINE ARTS RAD	267A	3	46-13-16	30.5	249.5	31
PASCO		WA BPH-890420MI	101.3	-28	119-11-20	211.7	218.5	CLEAR
Deletion proposed; CP Granted 02/06/90 per FCC release #20788 dated 02/06/90; Deletion proposed; CP Granted 02/06/90 per FCC release #20788 dated 02/06/90; d 01/28/92; ORDERED TO 267C3; Was KUKE 11/15/90 per FCC release #147 dated 11/16/90; Ant: Jampro JMPC-4X								
KEJO	CP	MADGEKAL BROADCASTING CO	268C	100	44-30-40	278.6	171.6	165
CORVALLIS		OR BMPH-900730IC	101.5	342	122-58-02	97.1	6.596	CLOSE
CP Granted 07/09/91 per FCC release #21162 dated 07/16/91								
KACA	LIC	CORMAC C THOMPSON INC	269C3	3.53	46-11-12	21.6	226.2	142
PROSSER		WA BLH-901119KI	101.7	265	119-45-13	202.3	84.16	CLEAR
CP Granted 08/22/91 per FCC release #21195 dated 08/28/91								
KINK	LIC	KING BROADCASTING COMPAN	270C	100	45-31-21	312.7	203.2	165
PORTLAND		OR BLH-860923KD	101.9	510BT	122-44-46	131.4	38.16	CLEAR
Affiliated with KGW (AM)								
KPQ-FM	LIC	WESCOAST BROADCASTING CO	271C	35	47-16-28	5.3	332.1	95
WENATCHEE		WA	102.1	809	120-25-30	185.6	237.1	CLEAR
Affiliated with KPQ (AM)								
KYYT	CP	COLIN B MALCOLM	272A	1.80	45-48-02	1.1	166.8	31
GOLDENDALE		WA BMPH-901214IC	102.3	175	120-47-35	181.1	135.8	CLEAR
CP Granted 04/10/91 per FCC release #21096 dated 04/17/91; CP Granted 04/10/91 per FCC release #21096 dated 04/17/91; Application for Lic 01/24/92; Was KZPC 06/14/91 per FCC release #160 dated 06/14/91; Ant: Phelps Dodge CFM LP-4								

>> End of channel 269A study <<

FM Spacing study

Title: PRINEVILLE, OR
Channel 271A (102.1 MHz)
Database: DW 04/04/92

Latitude: 44-18-00
Longitude: 120-50-00
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
KOAB-FM LIC	OREGON	COMMISSION ON PUBL	*217C2	25	44-04-41	238.4	46.91	15
BEND	OR	BLD-860128KC	91.3	184	121-19-57	58.0	31.91	CLEAR
KOPB-FM LIC	STATE OF	OREGON ET AL	*218C	70	45-31-22	312.7	203.5	29
PORTLAND	OR	BLD-840430DH	91.5	474	122-45-07	131.3	174.5	CLEAR
Was KOAP-FM 02/15/89								
KEJO	CP	MADGEKAL BROADCASTING CO	268C	100	44-30-40	278.6	171.6	95
CORVALLIS	OR	BMPH-900730IC	101.5	342	122-58-02	97.1	76.60	CLEAR
CP Granted 07/09/91 per FCC release #21162 dated 07/16/91								
KACA	LIC	CORMAC C THOMPSON INC	269C3	3.53	46-11-12	21.6	226.2	42
PROSSER	WA	BLH-901119KI	101.7	265	119-45-13	202.3	184.2	CLEAR
CP Granted 08/22/91 per FCC release #21195 dated 08/28/91								
KINK	LIC	KING BROADCASTING COMPAN	270C	100	45-31-21	312.7	203.2	165
PORTLAND	OR	BLH-860923KD	101.9	510BT	122-44-46	131.4	38.16	CLEAR
Affiliated with KGW (AM)								
KPQ-FM LIC	WESCOAST	BROADCASTING CO	271C	35	47-16-28	5.3	332.1	226
WENATCHEE	WA		102.1	809	120-25-30	185.6	106.1	CLEAR
Affiliated with KPQ (AM)								
KYYT	CP	COLIN B MALCOLM	272A	1.80	45-48-02	1.1	166.8	72
GOLDENDALE	WA	BMPH-901214IC	102.3	175	120-47-35	181.1	94.79	CLEAR
CP Granted 04/10/91 per FCC release #21096 dated 04/17/91;								
CP Granted 04/10/91 per FCC release #21096 dated 04/17/91; Application for Lic								
01/24/92; Was KZPC 06/14/91 per FCC release #160 dated 06/14/91; Ant: Phelps								
Dodge CFM LP-4								
KYTE	LIC	CENTRAL COAST BCG COMPAN	273C1	100	44-45-24	282.4	260.4	75
NEWPORT	OR		102.5	271	124-02-47	100.1	185.4	CLEAR
Deletion proposed; ORDERED TO 274C1;								
Was KYQT 01/01/91 per FCC release #149 dated 12/21/90;								
Affiliated with KNPT(AM)								
KORD	LIC	4-K RADIO	274C	100	46-05-47	32.2	237.6	95
RICHLAND	WA		102.7	335	119-11-36	213.3	142.6	CLEAR
Was KZZK-FM 10/01/89								

>> End of channel 271A study <<

FM Spacing study

Title: PRINEVILLE, OR
Channel 293A (106.5 MHz)
Database: DW 04/04/92

Latitude: 44-18-00
Longitude: 120-50-00
Safety zone: 30 km

Call	Auth	Licensee name	Chan	ERP-kW	Latitude	Br-to	Dist.	Req.
City of License	St	FCC File no.	Freq	EAH-m	Longitude	-from	(km)	(km)
KBOY-FM LIC	KBOY RADIO INCORPORATED	239C1	60	42-27-11	221.9	273.0	22	
MEDFORD	OR BLH-900810KB	95.7	299	123-03-21	40.4	251.0	CLEAR	
License Granted 07/17/91 per FCC release #21168 dated 07/23/91;								
Affiliated with KRVC(AM)								

KULE-FM LIC	B & G ENTERPRISES	240A	1.50	47-19-14	15.8	349.7	10	
EPHRATA	WA BLH-850402KC	95.9	140	119-34-21	196.7	339.7	CLEAR	
Deletion proposed; ORDERED TO 222C2;								
Was KGDN 11/01/90 per FCC release #146 dated 11/02/90;								
Affiliated with KULE(AM)								

NEW	APP	ATWATER KENT COMMUNICATI	290C2	16.3	45-27-18	314.1	186.7	55
VANCOUVER	WA BPH-890412MD	105.9	265	122-32-58	132.9	131.7	CLEAR	
DOC-90-418; Accepted per FCC release #NA-119 dated 03/12/90								

KFAT	LIC	KLOO INCORPORATED	291C	100	44-38-45	282.1	197.7	95
CORVALLIS	OR BLH-810511AL	106.1	347	123-16-13	100.4	102.7	CLEAR	
Deletion proposed; ORDERED TO 292C; Affiliated with KLOO(AM)								

KFAT	ORD	KLOO INCORPORATED	292C		44-38-45	282.1	197.7	165
CORVALLIS	OR	106.3		123-16-13	100.4	32.68	CLEAR	
DOC-87-523; ORDERED FROM 291C								

KOTY-FM CP	I-82 ACQUISTION CORPORAT	293C	100	46-05-43	32.2	237.5	226	
RICHLAND	WA BPH-890929IG	106.5	321	119-11-41	213.3	11.46	CLOSE	
CP Granted 09/06/90 per FCC release #20948 dated 09/13/90;								
Affiliated with KTCR(AM)								

ALLOC		294C		45-21-24	310.8	182.4	165	
OREGON CITY	OR	106.7		122-35-54	129.5	17.41	CLEAR	
Allocated to LAKE OSWEGO OR								

KKRB	LIC	WYNNE BROADCASTING COMPA	295C1	51	42-13-26	199.4	244.1	75
KLAMATH FALLS	OR BLH-870824KC	106.9	206	121-49-02	18.7	169.1	CLEAR	
Affiliated with KFLS(AM)								

KSKD	CP	GALAXY BROADCAST PARTNER	296C1	9	44-28-59	278.9	140.8	75
SWEET HOME	OR BMPH-910412IC	107.1	755BT	122-34-55	97.7	65.80	CLEAR	
CP Granted 10/30/91 per FCC release #21243 dated 11/05/91; Was KNKN 03/13/89								

>> End of channel 293A study <<

EXHIBIT B

ARTICLES OF INCORPORATION
CANNON, INC.

APPROVED AND RECEIVED FOR RECORD BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
OF MARYLAND MARCH 1, 1991 AT 10:50 O'CLOCK A.M. AS IN CONFORMITY
WITH LAW AND ORDERED RECORDED.

ORGANIZATION AND
CAPITALIZATION FEE PAID

RECORDING
FEE PAID

SPECIAL
FEE PAID

0.00

36.00

1317473

TO THE CLERK OF THE COURT OF

MONTGOMERY COUNTY

IT IS HEREBY CERTIFIED, THAT THE WITHIN INSTRUMENT, TOGETHER WITH ALL ENDORSEMENTS THEREON, HAS
BEEN RECEIVED, APPROVED AND RECORDED BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION OF MARYLAND.

RETURN TO:
SHELTON M. BENSTOCK, ESQ.
1140 CONNECTICUT AV., N.W.
SUITE 703
WASHINGTON DC 20036

15903040378

A 352025



RECORDED IN THE RECORDS OF THE
STATE DEPARTMENT OF ASSESSMENTS
AND TAXATION OF MARYLAND IN LIBER. FOLIO.

23-01-91 10:50 A.M.

ARTICLES OF INCORPORATION
OF
DANJON, INC.

FIRST: I, Shelton M. Binstock, whose post office address is 12412 Bobbink Court, Potomac, Maryland, being at least eighteen (18) years of age, hereby form a corporation under and by virtue of the General Laws of the State of Maryland.

SECOND: The name of the corporation (which is hereinafter referred to as the "Corporation") is:

DANJON, INC.

THIRD: The purposes for which the Corporation is organized are as follows:

(a) To prepare, file and prosecute one or more applications before the Federal Communications Commission for authorization to construct and operate one or more Multipoint Distribution Service Stations and to construct, own and operate such stations;

(b) To manufacture any personal property; to equip, furnish, improve, develop and manage any property, real or personal; to invest, trade and deal in any personal property; to encumber or dispose of any personal property at any time held or owned by the Corporation;

(c) To import, export, manufacture, produce, buy, sell and otherwise deal in and with, goods, wares and merchandise of every kind, class and description;

10008277

(d) To acquire all or any part of the good will, rights, property, business and interests of any individual, association, partnership, joint venture, corporation or other legal entity; to engage in, operate, hold, utilize, enjoy and in any manner dispose of the whole or any part of the rights, property, business and interests so acquired; to assume in connection therewith any liabilities of any such individual, association, partnership, joint venture, corporation or other legal entity;

(e) To acquire, by purchase, subscription or in any other manner, take, receive, hold, use, employ, sell, assign, transfer, exchange, pledge, mortgage, lease, dispose of and otherwise deal in and with any shares of stock or other shares, voting trust certificates, bonds, debentures, notes, mortgages or other obligations, securities or evidences of indebtedness, and any certificates, receipts, warrants, or other instruments evidencing rights or options to receive, purchase or subscribe for same or representing any other rights or interests therein or in any property or assets, issued or created by any individual, association, partnership, joint venture, corporation, government (or subdivision or agency thereof) or other legal entity, wherever organized and wherever doing business; to possess and exercise in respect thereof any and all of the rights, powers and privileges of individual holders including, without limitation, the right to vote any shares of stock so held or owned and, upon a distribution of the assets or a division of the profits of the Corporation, to

distribute any such shares of stock or other shares, voting trust certificates, bonds or other obligations, securities or evidences of indebtedness (or the proceeds thereof) among the stockholders of the Corporation;

(f) To erect dwellings, apartment houses, commercial buildings and other buildings, private or public of all kinds, and to sell and rent same; to contract, enlarge, repair, grade, pave, dedicate, remodel or otherwise engage in any work upon buildings of every nature, roads, avenues, highways, paths, walks, parks, playgrounds and sidewalks; to engage in iron, steel, wood, brick, concrete, stone, cement, masonry, glass and earth construction; to execute contracts or to receive assignments of contracts therefor or relating thereto; to manufacture and furnish the building materials and supplies connected therewith;

(g) To apply for, obtain, purchase or otherwise acquire any patents, copyrights, licenses, trademarks, trade names, rights, processes, formulas and the like; to use, exercise, develop and grant licenses in respect of, sell and otherwise turn to account the same;

(h) To purchase (or otherwise acquire), hold, sell, retire, reissue or otherwise dispose of shares of its own stock of any class in any manner now or hereafter authorized or permitted by law, and to pay therefor, with cash or other property;

(i) To borrow or raise money and to issue bonds, debentures, notes or other obligations of any nature (and in any

manner permitted by law) including obligations convertible into stock of the Corporation, for money so borrowed or in payment for property purchased, or for any other lawful consideration, and to secure the payment thereof, and of the interest thereon, by mortgage upon, pledge, conveyance or assignment in trust of, the whole or any part of the property of the Corporation, real or personal, including contract rights, whether at the time owned or thereafter acquired; to sell, pledge, discount or otherwise dispose of such bonds, debentures, notes or other obligations of the Corporation;

(j) To aid, by loan, subsidy, guaranty or in any lawful manner whatsoever, any individual, association, partnership, joint venture, corporation or other legal entity whose stocks, bonds, notes, debentures or other obligations, securities or evidences of indebtedness are in any manner directly or indirectly held or guaranteed by the Corporation, or by any corporation in which the Corporation may have an interest directly or indirectly as stockholder, creditor, guarantor or otherwise, or whose shares or securities are owned by the Corporation; to do any and all lawful acts and things designed to protect, preserve, improve or enhance the value of any stocks, bonds, notes, debentures or other obligations, securities or evidences of indebtedness of any individual, association, partnership, joint venture, corporation or other legal entity in which the Corporation has an interest directly or indirectly as a stockholder, creditor, guarantor or

otherwise, or whose shares or securities are owned by the Corporation, or to lend money with or without collateral security;

(k) To guarantee the payment of dividends upon any shares of stock of any other association or corporation; to guarantee the performance of any contract by any individual, association, partnership, joint venture, corporation or other legal entity; to endorse or otherwise guarantee the payment of principal and interest, or either, of any bonds, debentures, notes, securities or other evidences of indebtedness created or issued by any such individual, association, partnership, joint venture, corporation or other legal entity, it not being necessary that such guaranty or endorsement shall be intended to result in any benefit to the Corporation (it being understood that in no way shall the Corporation act as a surety company);

(l) To carry out all or any part of the purposes set forth herein as principal, broker, factor, agent, contractor or otherwise, either alone, through or in conjunction with any individual, association, partnership, corporation or other legal entity; to make, execute and perform any contracts or agreements and to do any other acts and things for the accomplishment of any of the purposes set forth herein or incidental to such purposes, or which at any time may appear conducive to or expedient for the accomplishment of any such purposes;

(m) To carry out all of the purposes set forth herein in any or all states, territories, districts, dependencies and

possessions of the United States of America and any foreign country; to maintain offices and agencies in any or all states, territories, districts, dependencies and possessions of the United States of America and any foreign country;

(n) To organize, engage in, operate, incorporate, reorganize, liquidate and dissolve any business, association, partnership, joint venture, corporation (subsidiary, affiliated or other) or other legal entity for any purpose permitted by law; to invest in any manner in any association, partnership, joint venture, corporation (subsidiary, affiliated or other) or other legal entity;

(o) To do any act or thing and exercise any power suitable, convenient or proper for the accomplishment of any of the purposes set forth herein or incidental to such purposes, or which at any time may appear conducive to or expedient for the accomplishment of any of such purposes; and

(p) To have and exercise any and all powers and privileges now or hereafter conferred by the General Laws of Maryland upon corporations formed under such laws.

The foregoing enumeration of the purposes of the Corporation is made in furtherance and not in limitation of the powers conferred upon the Corporation by law. The mention of any particular purpose is not intended in any manner to limit or restrict the generality of any other purpose mentioned, or to limit or restrict any of the powers of the Corporation. The Corporation

shall have, enjoy and exercise all of the powers and rights now or hereafter conferred by the laws of the State of Maryland upon corporations of a similar character, it being the intention that the purposes set forth in each of the paragraphs of this Article shall, except as otherwise expressly provided, in nowise be limited or restricted by reference to or inference from the terms of any other clause or paragraph of this or any other Article of these Articles of Incorporation, or of any amendment thereto, and shall each be regarded as independent, and construed as powers as well as purposes; provided, however, that nothing herein contained shall be deemed to authorize or permit the Corporation to carry on any business or exercise any power, or do any act which a corporation formed under the General Laws of Maryland may not at the time lawfully carry on or do.

✓ FOURTH: The post office address of the principal office of the Corporation in this State is 12412 Bobbink Court, Potomac, Maryland 20854. The name and post office address of the Resident Agent of the Corporation in this State are Shelton M. Binstock, 12412 Bobbink Court, Potomac, Maryland 20854. Said Resident Agent is an individual actually residing in this State.

FIFTH: The total number of shares of capital stock which the Corporation is authorized to issue is One Thousand (1,000), all of one class and designated as Common Stock, with a par value of One Dollar (\$1.00) per share.

SIXTH: The number of directors of the Corporation shall be